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FOOD DISTRIBUTION ADMINISTRATION
UNITED STATES DEPARTMENT OF AGRICULTURE

[FDO 41]

PART 1495—EGGS AND EGG PRODUCTS

RESTRICTIONS ON THE DISTRIBUTION AND PRODUCTION OF LIQUID, DRIED, AND FROZEN EGGS, AND EGG PRODUCTS

Pursuant to the authority vested in me by Executive Order No. 9280, dated December 5, 1942, and in order to assure an adequate supply and efficient distribution of eggs and egg products to meet war and essential civilian needs, *It is hereby ordered*, as follows:

§ 1495.1 *Restrictions on distribution and production of eggs and egg products*—(a) *Definitions*. When used in this order, unless otherwise distinctly expressed or manifestly incompatible with the intent thereof:

(1) The term "drier" means any person who produces spray dried whole eggs.

(2) The term "spray dried whole eggs" means the dried whole eggs, of the type produced by the spray process, defined and identified in an order (4 F.R. 3376, 21 CFR, 1939 Supp., 42.30) issued by the Secretary of Agriculture of the United States on July 19, 1939, promulgating a regulation fixing and establishing a reasonable definition and standard of identity for the food product commonly known as dried whole eggs.

(3) The term "seasonal year 1943" means the twelve-month period commencing February 1, 1943, and extending through January 31, 1944.

(4) The term "seasonal year 1942" means the twelve-month period commencing February 1, 1942, and extending through January 31, 1943.

(5) The term "egg products" means whole eggs, albumen, yolks, sugared or salted yolks, or any mixtures or emulsions thereof, either in frozen or liquid form.

(6) The term "whole eggs" means shell eggs which are broken from the shells, with yolk and albumen in their natural proportion as so broken, either in liquid or frozen form.

(7) The term "albumen" means the whites of shell eggs, either in liquid or frozen form, after the breaking of the eggs and the separation of the whites from the yolks.

(8) The term "yolks" means the egg yolk, either in frozen or liquid form, defined and identified in an order (4 F.R. 3376, 21 CFR, 1939 Supp., 42.40) issued by the Secretary of Agriculture of the United States on July 19, 1939, promul-

gating a regulation fixing and establishing a reasonable definition and standard of identity for the food product commonly known as egg yolks.

(9) The term "sugared or salted yolks" means yolks, either in frozen or liquid form, to which sugar or salt has been added.

(10) The term "emulsion" means a mixture of egg products, whether in liquid or frozen form, to which has been added an emulsifying agent or solvent such as glycerin.

(11) The term "mixtures" means the mixtures, either in frozen or liquid form, of two or more individual egg products.

(12) The term "dried egg yolks" means the food prepared by drying egg yolks which are defined and identified in an order (4 F.R. 3375, 21 CFR, 1939 Supp., 42.60) issued by the Secretary of Agriculture of the United States on July 19, 1939, promulgating a regulation fixing and establishing a reasonable definition and standard of identity for the food product commonly known as dried egg yolks.

(13) The term "dried albumen" means liquid albumen that has been dried and is generally sold in flaked or powdered form.

(14) The term "pan-dried whole eggs" means the dried whole eggs, of the type produced by the pan drying method, defined and identified in an order (4 F.R. 3376, 21 CFR, 1939 Supp., 42.30) issued by the Secretary of Agriculture of the United States on July 19, 1939, promulgating a regulation fixing and establishing a reasonable definition and standard of identity for the food product commonly known as dried whole eggs.

(15) The term "shell eggs" means the eggs of the fowl, known as the domestic or barnyard hen, in their natural state or treated with a mineral oil for the purpose of preservation.

(16) The term "person" means any individual, partnership, corporation, association, or other business entity.

(17) The term "Director" means the Director of Food Distribution, United States Department of Agriculture, or any employee of the United States Department of Agriculture designated by the Director.

(18) The term "governmental agency" means the Food Distribution Administration, the Army, the Navy, the Marine Corps, the Coast Guard, the War Shipping Administration, the Veterans Administration, or any other agency or

instrumentality of the United States designated by the Director.

(b) *Restrictions on processing, and sale of eggs and egg products*. (1) Each drier shall set aside and hold for delivery to a governmental agency all spray dried whole eggs now owned or hereafter produced by him: *Provided*, That the Director may permit the sale of spray dried whole eggs to purchasers, other than a governmental agency, for essential civilian requirements.

(2) The spray dried whole eggs set aside pursuant to (b) (1) may be offered for sale by the drier to a governmental agency, at no more than the ceiling price or ceiling prices established by the Office of Price Administration.

(3) During the seasonal year 1943 no person shall produce liquid or frozen egg products, which will be used for purposes other than drying or furnishing to, for, or on account of a governmental agency, in a quantity in excess of the total amount of all such egg products which were produced by such person in the seasonal year 1942 and which were used for purposes other than drying.

(4) During the seasonal year 1943 no person shall produce, other than that which is produced for, or on account of, a governmental agency, dried egg yolk, dried albumen, any mixtures of dried egg yolk and dried albumen, or pan-dried whole eggs in a quantity in excess of the total amount of dried egg yolk, dried albumen, any mixtures of dried egg yolk and dried albumen, or pan-dried whole eggs, respectively, which were produced by such person in the seasonal year 1942.

(5) The restrictions and requirements hereof shall be observed without regard to the rights of creditors, prior contracts, existing contracts, payments made, or deliveries of spray dried whole eggs, pan dried whole eggs, dried yolk, dried albumen, or egg products made prior to the effective date hereof. This order shall not, however, affect the amount of such articles which any person is required to offer, or to deliver, under any contract for the furnishing of eggs or egg products to a governmental agency; nor shall this order apply to any sale, purchase, or processing of spray dried whole eggs, pan-dried whole eggs, dried yolk, dried albumen or egg products to, by, or for, a governmental agency, or any person for use in the manufacture of any product in the fulfillment of a contract with a governmental agency.

(c) *Records and reports.* Every person subject to this order shall maintain such records for at least two years (or for such other periods of time as the Director may designate) and shall execute and file such reports upon such forms and submit such information as the Director may from time to time request or direct, and within such times as he may prescribe, subject to the approval of the Bureau of the Budget, pursuant to the Federal Reports Act of 1942.

(d) *Audits and inspections.* Every person subject to this order shall, upon request, permit inspections by the Director at all reasonable times of his stocks of restricted foods, and premises used in his business, and all of his books, records, and accounts shall, upon request, be submitted to audit and inspection by the Director.

(e) *Applicability of order.* Any person doing business in one or more of the 48 States or the District of Columbia is subject to the provisions hereof, but the provisions hereof shall not apply to any person doing business in any Territory or

Possession of the United States with respect to such business.

(f) *Violations.* Any person who willfully violates any provision of this order or who by any act or omission falsifies records to be kept or information to be furnished pursuant to this order or willfully conceals a material fact concerning a matter within the jurisdiction of any Department or agency of the United States may be prohibited from receiving or making further deliveries of any material subject to allocation; and such further action may be taken against him as the Director deems appropriate, including recommendations for prosecution under section 35 (a) of the Criminal Code (18 U.S.C. 1940 ed. 80), under paragraph 5 of section 301 of Title III of the Second War Powers Act, and under any and all other applicable laws.

(g) *Petition for relief from hardship.* Any person affected by this order who considers that compliance herewith would work an exceptional and unreasonable hardship on him, may petition in

writing (in triplicate) for relief to the Director, setting forth all pertinent facts and the nature of the relief sought. The Director may thereupon take such action as he deems appropriate, and such action shall be final.

(h) *Communications to the Department of Agriculture.* All reports required to be filed hereunder and all communications concerning this order shall, unless otherwise directed, be addressed to: Director of Food Distribution, United States Department of Agriculture, Washington, D. C. Ref: FD-41.

(i) *Delegation of authority.* The Director of Food Distribution is hereby designated to administer the provisions hereof.

(j) *Effective date.* This order shall be effective as of 12:01 a. m., e. w. t., March 25, 1943.

(E.O. 9280, 7 F.R. 10179)

Issued this 22d day of March 1943.

[SEAL]

CLAUDE R. WICKARD,
Secretary of Agriculture.

Press Release—Immediate:
Tuesday, March 23, 1943.

Food Distribution Order No. 41, reserving the entire 1943 production of spray process dried whole eggs for delivery to Governmental agencies, was issued today by Secretary of Agriculture Claude R. Wickard. The order, affecting all manufacturers of dried whole eggs, will be administered by the Food Distribution Administration and will become effective March 25.

The order also limits the production of frozen and liquid eggs, dried yolks, dried albumen, and pan-dried whole eggs to the quantities produced and sold for commercial use in the United States in 1942. Its purpose is to obtain maximum production of spray dried whole eggs for delivery to Governmental agencies.

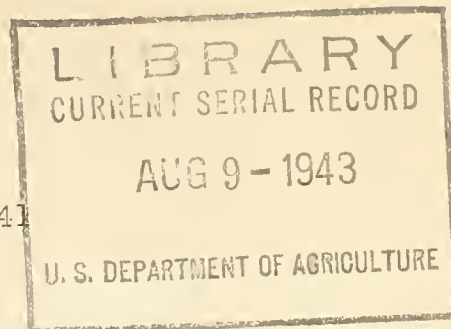
Wartime use has served to popularize dried whole eggs and at this time large quantities could be sold in commercial channels in the United States. Requirements for direct war needs, however, are great. More than 275 million pounds have been purchased by the FDA to supply Lend-Lease needs since shipments began in March 1941. Additional quantities have been purchased by our own military forces. Present capacity of the Nation's egg drying plants, based on operation at the rate of 22 hours a day, amounts to about 400 million pounds a year. Current estimates call for delivery of some 350 million pounds of dried whole eggs for Lend-Lease and military purposes in 1943, and FDA officials would like to see a stockpile of at least 50 million pounds in reserve for emergency use.

These quantities cannot be obtained unless the full production of all spray dried whole eggs is reserved for delivery to Government agencies. For the period January 1 through March 13, purchases of the product by the FDA totalled only 34,156,000 pounds or about 20 million pounds short of the scheduled purchases for the period.

Food Distribution Order No. 41 will not reduce the quantity of egg products available for civilian use from the level of civilian consumption in 1942. It will permit users of such products to operate at last year's volume but will not permit them to meet entirely the tremendous consumer demands that have been developed as a result of increased purchasing power and rationing of meats, butter, cheese, and canned goods.

UNITED STATES DEPARTMENT OF AGRICULTURE
Food Distribution Administration
Washington, D. C.

March 1943



E G G P R O D U C T S

Food Distribution Order No. 41

Questions and Answers

This statement prepared for general distribution is intended to supply the answers to many of the questions raised by the public. For additional information, write to the Administrator of Food Distribution Order No. 41, Food Distribution Administration, Washington, D. C., or to one of the regional offices located at Atlanta, Georgia; Chicago, Illinois; Dallas, Texas; Denver, Colorado; Des Moines, Iowa; New York, New York; and San Francisco, California.

1. Q - What is the purpose of the Order?

A - Many animal protein foodstuffs are being rationed, and there will be a very strong consumer demand for eggs and egg products. This demand is jeopardizing the Government's program of procuring spray dried whole eggs for both Lend-Lease and the Armed Forces. The Order reserves all spray dried whole eggs for sale to governmental agencies, and limits, during the seasonal year 1943, the production of frozen, liquid and dried egg products for nongovernmental uses to the amounts of such products that were produced for such purposes in the seasonal year 1942.

2. Q - When will the Order become effective?

A - The Order will become effective on March 25, 1943.

3. Q - Who will administer the Order?

A - The Order will be administered by the Food Distribution Administration through the Dairy and Poultry Branch and the regional offices of the FDA.

4. Q - How will the Order affect present contracts?

A - The restrictions and requirements of the Order shall be observed without regard to the rights of creditors, prior contracts, existing contracts, payments made, or deliveries of spray dried whole eggs, pan dried whole eggs, dried yolks, dried albumen, or frozen and liquid eggs made prior to the effective date of the Order.

5. Q - To whom does the Order apply?

A - The Order applies to any individual, partnership, corporation, or any other business unit that engages in the production of any dried, frozen, or liquid egg products, designated in the Order, in any State or in the District of Columbia.

6. Q - Will the Order apply to contracts covering the breaking of shell eggs by a breaker for the owner of the shell eggs?

A - Such contracts are covered in the Order.

7. Q - Will limitations apply to use or to production?

A - Limitations apply to production; it will be the responsibility of producers to make a fair allocation of the product available for commercial use among their various customers.

8. Q - Will the limitation on production result in small purchasers finding it difficult to obtain their supplies?

A - Not in itself. However, the industry will have a moral responsibility in making fair allocations.

9. Q - How will the Order affect producers who may already have produced more than their 1943 quota?

A - At the time the Order becomes effective, not many producers will have exceeded their 1943 quota. However, if this is the case, production should be halted immediately and if the producer so desires, application for relief under the hardship clause may be made through the Director.

10. Q - May any individual user buy more egg products in the seasonal year 1943 than he did in 1942?

A - Yes. There is no legal restriction on use; it will be a responsibility of the industry to make a fair allocation between users.

11. Q - What might be considered as "essential civilian requirements" for the sale of dried whole eggs?

A - This will be for the determination of the Director which determination shall be based upon necessary use.

12. Q - How would permission of the Director be obtained for such sales?

A - By making a written application to the Director.

13. Q - Will the limitation on dried whole eggs prevent research uses?

A - The Director may release, upon proper justification being shown, such quantities as might be needed by bona fide research workers.

14. Q - May spray dried whole eggs be offered to a governmental agency if they do not meet the inspection requirements for grade A or specifications of the Armed services?

A - Yes. It is believed that specifications for Grade B powder will allow the sale of such powder.

15. Q - Are the limitations of this Order justified?

A - Yes. They will assist in meeting war demands and limitations to 1942 production should bring little, if any, real sacrifices on the part of civilian users.

16. Q - If a producer sold his products to a broker in 1942, how will he determine the amount he may produce for sale in commercial channels in 1943?

A - The burden of proof will be with the producer, i.e. he will have to follow through with the broker and present satisfactory evidence to the Director as to the final end use of the product in 1942.

17. Q - Will the Government be responsible for contracts to commercial users which cannot be fulfilled because of this Order?

A - No.

18. Q - What types of reports will be required from the trade?

A - The types of reports required will be available to the trade in the near future.

19. Q - How will the Order affect the purchase of frozen eggs for drying contracts?

A - The dryer may purchase frozen eggs and report this information to the Director. An egg breaker may sell freely to a dryer for this purpose (reporting such sales to the Director on forms to be provided) and the dryer in turn will be requested to report such purchases, his own production stored as a backlog, together with his future contracts which they are to cover.

20. Q - How will the Order affect the purchase of liquid eggs by a dryer for drying purposes?

A - The breaker may sell liquid eggs to a dryer (reporting such sales to the Director on forms to be provided), and the dryer in turn will be requested to report his purchases and production to the Director.

21. Q - How long will this Order remain in effect?

A - As long as is necessary to meet the purposes for which it is intended as outlined in Answer No. 1.

22. Q - The term "egg products" used in (b) (3) of the Order; does this mean all egg products as the term is commonly used?

A - No. This term refers only to the products designated in definition No. 5 of the Order.

23. Q - Is the limitation imposed by (b) (4) applicable to the same commodity which was produced in the seasonal year 1942? For example, can a producer produce only 100 percent of the dried egg yolks which he produced in the seasonal year 1942, or may he produce up to 100 percent of the total production of all items covered by (b) (4) so long as the total production of all the items listed does not exceed 100 percent of the total for the seasonal year 1942?

A - (b) (4) of the Order limits the production of the items restricted there during the seasonal year 1943 to 100 percent of the same item produced in the seasonal year 1942 which was not produced for or on account of a governmental agency. Therefore, a producer can produce during the seasonal year 1943 only the same amount of egg yolk that he produced in the seasonal year 1942 and which was not produced for or on account of a governmental agency. However, the opposite is true of (b) (3) of the Order; that is, the producer can produce any or all of the egg products defined so long as his total production does not exceed the total production of all the egg products produced by him in the seasonal year 1942 which were not used for drying or for or on account of a governmental agency.

24. Q - Under (b) (3) in computing the amount of an egg product which a producer can produce during the seasonal year 1943, must he include the amounts which are or will be produced for drying or furnished to, for, or on account of a governmental agency?

A - No. However, in figuring how much was produced in the seasonal year 1942 he must include the amount of those products which were produced for or on account of a governmental agency, but not those which were used for drying.

WAR FOOD ADMINISTRATION

A [FDO 41, Termination]

PART 1495—EGGS AND EGG PRODUCTS

LIQUID, DRIED, AND FROZEN EGGS, AND EGG PRODUCTS

Pursuant to the authority vested in me by Executive Order No. 9280, dated December 5, 1942, and Executive Order No. 9322, dated March 26, 1943, as amended by Executive Order No. 9334, dated April 19, 1943, it is hereby ordered, as follows:

That Food Distribution Order No. 41, issued by the Secretary of Agriculture on March 22, 1943 (8 F.R. 3564), restricting the distribution and production of liquid, dried, and frozen eggs, and egg products, be, and the same is hereby, terminated at 12:01 a. m., e. w. t., October 22, 1943.

With respect to violations of said Food Distribution Order No. 41, rights accrued, liabilities incurred, or appeals taken under said order, prior to the effective time of the termination thereof,

said Food Distribution Order No. 41 shall be deemed to be in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, or liability.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423)

Issued this 21st day of October 1943.

MARVIN JONES,
War Food Administrator.

Press Release, Immediate:
Friday, October 22, 1943.

Consumers will be able to get more egg products as a result of action taken today by the War Food Administration, in removing restrictions on liquid, frozen, and dried whole eggs.

This action, effective today (October 22) was accomplished through revocation of Food Distribution Order 41, which since March 25, has required all spray process dried whole egg production to be reserved for Government purchase, and restricted production of liquid

and frozen eggs, and certain types of dried eggs, to the quantities produced and sold for commercial use in the United States in the twelve month period from February 1, 1942 through January 31, 1943.

Provisions of FDO 41, regulating the production of frozen eggs and dried eggs other than dried whole eggs also have been removed. These provisions have now served the purposes for which they were intended, said Food Distribution Administration officials.

Adequate supplies of dried whole eggs are being made available to the Government for meeting war requirements.

Although this is the season when the production of eggs is usually low, the lifting of set-aside restrictions nevertheless will bring some increase in shell, frozen and dried egg supplies for consumers.

These increases will be reflected primarily in more dried eggs being made available for the production of noodles, macaroni, prepared flours, and prepared ice-cream powders and mixes, where dried eggs are best adapted to large-scale usage. Also, more frozen eggs will be available to bakers, mayonnaise makers, and other food manufacturers using frozen eggs.

